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PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

APPELLANT: Erickson et al. DOCKET: YOR920000606US1 (8728-422)

SERIAL NO.: 09/727,079 GROUP ART UNIT: 2151

FILED: November 30, 2000 EXAMINER: Dinh, Khanh Q.

FOR: **METHODS FOR RENAMING A MEMORY REFERENCE TO STACK LOCATIONS IN A COMPUTER PROCESSING SYSTEM**

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RESPONSE TO NOTICE OF NON-COMPLIANCE WITH APPEAL BRIEF

In response to the Advisory Action dated April 6, 2005 and the Final Office Action dated December 10, 2004 finally rejecting Claims 1-7 and 9-14 and 16-23 under 35 U.S.C. §102(e) and Claim 8 under and 35 U.S.C. §103(a). Applicant appeals pursuant to the Notice of Appeal filed on May 9, 2005 and submit this appeal brief.

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

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Dated: July 11, 2005


Melithza Rodriguez

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1. Real Party in Interest

The real party in interest is International Business Machines Corporation, the assignee of the entire right, title, and interest in and to the subject application by virtue of an assignment of record.

2. Related Appeals and Interferences

None.

3. Status of Claims

Claims 1-14 and 16-23 are pending, stand rejected, and are under appeal.

Claim 15 has been cancelled.

A copy of the Claims as pending is presented in the Appendix.

4. Status of Amendments

Claims 1, 7, 19, and 23 were amended by the Amendment under 37 C.F.R. §1.111, filed July 15, 2004 and ratified July 22, 2004. This Amendment was entered.

Claim 8 was amended and Claim 15 was cancelled by the Amendment under 37 C.F.R. §1.116, filed February 10, 2005. This Amendment was entered.

5. Summary of Claimed Subject Matter

The present invention relates to a method for providing an electronic environment for facilitating user interaction with a business. The method displays an abstract graphical proxy for the environment, displays an abstract graphical proxy for at least one consumer within the environment, and provides the consumer with interactive business facilities. The environment is a marketplace structured by the business. The environment comprises interactive applets. Each consumer proxy is individualized according to consumer input or each consumer proxy is individualized according to consumer activity.

Referring to Claim 1; a method of providing an electronic environment for facilitating user interaction with a business includes displaying an abstract graphical proxy for the environment as described, for example, at page 10 lines 18 to page 11, line 11. The method includes displaying an abstract graphical proxy for at least one consumer within the environment as described, for example, at page 11 line 12 to page 12 line 7. The method further includes providing the at least one consumer with interactive business facilities via the abstract graphical proxy for the environment as described, for example, at page 14 lines 7-15.

Referring to Claim 8; a method is described including representing a social proxy in an abstract graphical display of

a marketplace for facilitating consumer interaction, wherein the abstract graphical display of the marketplace is an auction proxy including concentric circles, an inner-most circle for displaying auction information, an inner circle for indicating bidding activity, and an outer circle for indicating user interest (see for example, Figure 4 and page 17, line 9 to page 18, line 4). The method includes defining a consumer proxy of a consumer, the consumer proxy having updatable variables as described, for example, at page 11, lines 13-18. The method further includes displaying the consumer proxy within the abstract graphical display of the marketplace as described, for example, at page 11 line 12 to page 12 line 7. Further still, the method includes updating the consumer proxy variables periodically, as described, for example, at page 9, lines 14-16.

Referring to Claim 19; claim 19 includes all the limitations of claim 1. Further, claim 19 claims a program storage device readable by machine, tangibly embodying a program of instructions executable by the machine to perform a method for facilitating the presentation of an marketplace environment in graphical form as described at page 9, line 19 to page 10, line 17.

6. Grounds of Rejection to be Reviewed on Appeal

A. Claims 1 and 19 stand rejected under 35 U.S.C. 102(e) as being anticipated by Gudjonsson et al. (U.S. Patent No. 6,564,261).

B. Claim 8 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Gudjonsson et al. (U.S. Patent No. 6,564,261) and Fisher et al. (U.S. Patent No. 5,935,896).

7. Argument

A. The Claim Rejections Under 35 U.S.C. 102 Are Legally Deficient.

Under 35 U.S.C. §102, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. The identical invention must be shown in as complete detail as is contained in the claim. See MPEP §2131.

i. Claims 1 and 19

It is respectfully submitted that at the very least, Gudjonsson is legally deficient to establish a case of anticipation against independent Claims 1 and 19.

Referring to Claims 1 and 19, Gudjonsson teaches methods for establishing a communication session between the users, wherein the communication session may be a text chat session, a voice chat session, or web conference (see col. 3, lines 13-18).

Gudjonsson does not teach "providing the at least one consumer with interactive business facilities via the abstract graphical proxy for the environment," as claimed in Claims 1 and 19. The communication sessions of Gudjonsson do not include abstract graphical proxies for an environment. Indeed Gudjonsson merely teaches methods for establishing a communication session on a backend of a network, for example, defining user IDs, setting security protocols and the like (see col. 16, lines 58-55).

Gudjonsson's backend processes do not teach an abstract graphical proxy for an environment, much less provide a "consumer with interactive business facilities via the abstract graphical proxy for the environment" as claimed in Claims 1 and 19. Thus, Gudjonsson fails to teach all the limitations of Claims 1 and 19.

Accordingly, the rejection of Claims 1 and 19 should be overruled. Claims 2-7 depend from Claim 1. Claims 20-23 depend from Claim 19. The dependent claims include the elements of their respective independent claims and they are not rendered unpatentable by the cited reference for at least the reasons given for the independent claims.

B. The Claim Rejections Under 35 U.S.C. 103 Are Legally Deficient.

In rejecting claims under 35 U.S.C. §103, the Examiner bears the initial burden of presenting a *prima facie* case of obviousness. In re Rijckaert, 9 F.3d 1531, 1532 (Fed. Cir. 1993). The burden of presenting a *prima facie* case of obviousness is only satisfied by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references. In re Fine, 837 F.2d 1071, 1074 (Fed. Cir. 1988). A *prima facie* case of obviousness is established when the teachings of the prior art itself would appear to have suggested the claimed subject matter to one of ordinary skill in the art. In re Bell, 991 F.2d 781, 782 (Fed. Cir. 1993). If the Examiner fails to establish a *prima facie* case, the rejection is improper and must be overturned. In re Rijckaert, 9 F.3d at 1532 (citing In re Fine, 837 F.2d at 1074).

i. Claim 8

It is respectfully submitted that at the very least, the combined teachings of Gudjonsson and Fisher are legally deficient to establish a *prima facie* case of obviousness against independent Claim 8.

Claim 8 claims, *inter alia*, "representing a social proxy in an abstract graphical display of a marketplace for facilitating

consumer interaction, wherein the abstract graphical display of the marketplace is an auction proxy including concentric circles, an inner-most circle for displaying auction information, an inner circle for indicating bidding activity, and an outer circle for indicating user interest."

The combined teachings of Gudjonsson and Fisher are legally deficient to establish a *prima facie* case of obviousness against Claim 8 because Gudjonsson and Fisher do not teach or suggest representing a social proxy in an abstract graphical display wherein the "abstract graphical display of the marketplace is an auction proxy including concentric circles," as claimed in Claim 8.

Gudjonsson teaches a communication session between users in Figures 1-6, wherein the session is a text chat session, a voice chat session, or web conference (see col. 3, lines 13-18).

Gudjonsson teaches that a list of users is displayed (see Figure 8 and col. 11, line 43 to col. 12, line 18). Gudjonsson does not teach or suggest representing a social proxy in an abstract graphical display wherein the "abstract graphical display of the marketplace is an auction proxy including concentric circles," as claimed in Claim 8. The communication sessions of Gudjonsson may be text, voice, or web conferences. Text, voice, or web conference sessions are not analogous to an abstract graphical display of a marketplace, essentially as claimed in claim 8. The

communication sessions of Gudjonsson are actual, literal sessions, e.g., users typing text messages or speaking directly to one another. The communication sessions of Gudjonsson do not provide an "abstract graphical display of the marketplace is an auction proxy including concentric circles," as claimed in Claim 8. Therefore, Gudjonsson fails to teach or suggest all the limitations of Claim 8.

Fisher teaches a system and method for performing an auction (see Abstract). Fisher teaches a literal representation of the auction (see Figure 2). Fisher does not teach or suggest representing a social proxy in an abstract graphical display wherein the "abstract graphical display of the marketplace is an auction proxy including concentric circles," as claimed in Claim 8. Fisher's system presents a user with catalogs and forms (see col. 7, lines 32-43). Catalogs and forms are literal representations of the auction. Catalogs and forms are not analogous to an "abstract graphical display of the marketplace is an auction proxy including concentric circles," as claimed in Claim 8. Nowhere does Fisher teach or suggest an abstract display of an auction, essentially as claimed in Claim 8. Therefore, Fisher fails to cure the deficiencies of Gudjonsson.

Neither Gudjonsson nor Fisher teach or suggest, either alone or in combination, an abstract graphical display of a marketplace, much less an auction proxy. Therefore, the combined

teachings of Gudjonsson and Fisher fail to teach or suggest all the limitations of Claim 8. Because the combined teachings of Gudjonsson and Fisher fail to teach or suggest every limitation of Claim 8, it is respectfully asserted that no case of anticipation has been made out.

Accordingly, the rejection of Claim 8 should be overruled. Claims 9-14 and 16-18 depend from Claim 8. The dependent claims include the elements of independent Claim 8 and they are not rendered obvious by the cited references for at least the reasons given for the independent Claim 8.

C. CONCLUSION

The claimed invention is not disclosed or suggested by the teachings of the applied prior art references, either alone or in combination. Moreover, the Examiner has failed to establish a case of anticipation of the presently claimed method under 35 U.S.C. §102 over Gudjonsson with respect to Claims 1 and 19 for at least the reasons noted above. Further, the Examiner has failed to establish a *prima facie* case of obviousness of the presently claimed method under 35 U.S.C. §103 over Gudjonsson and Fisher with respect to Claim 8 for at least the reasons noted above. Accordingly, it is respectfully requested that the Board overrule the rejection of Claims 1-7, 9-14 and 16-23 under 35 U.S.C. §102 and the rejection of Claim 8 under 35 U.S.C. §103.

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8. CLAIMS APPENDIX

What is claimed is:

1. A method of providing an electronic environment for facilitating user interaction with a business comprising the steps of:

 displaying an abstract graphical proxy for the environment;

 displaying an abstract graphical proxy for at least one consumer within the environment; and

 providing the at least one consumer with interactive business facilities via the abstract graphical proxy for the environment.

2. The method of claim 1, wherein the environment is a marketplace structured by the business.

3. The method of claim 1, wherein the environment includes a chat application.

4. The method of claim 3, wherein the chat application includes one of private chat and public chat.

5. The method of claim 1, wherein the environment comprises interactive applets.

6. The method of claim 1, wherein each consumer proxy is individualized according to consumer input.

7. The method of claim 1, wherein the consumer proxy is individualized according to consumer activity of the at least one consumer within the environment.

8. A method comprising the steps of:

representing a social proxy in an abstract graphical display of a marketplace for facilitating consumer interaction, wherein the abstract graphical display of the marketplace is an auction proxy including concentric circles, an inner-most circle for displaying auction information, an inner circle for indicating bidding activity, and an outer circle for indicating user interest;

defining a consumer proxy of a consumer, the consumer proxy having updatable variables;

displaying the consumer proxy within the abstract graphical display of the marketplace; and

updating the consumer proxy variables periodically.

9. The method of claim 8, wherein the social proxy is defined by a provider.

10. The method of claim 8, wherein the social proxy is extensible.
11. The method of claim 10, wherein the social proxy is used interactively by the consumer with an application, wherein the application is an extension of the social proxy.
12. The method of claim 8, further includes the step of displaying a link to a second social proxy.
13. The method of claim 8, wherein the social proxy is one of a plurality of social proxies within a hierarchical system of proxies.
14. The method of claim 8, wherein the step of displaying the consumer proxy, further comprises limiting data displayed based on a consumer's access credentials.
16. The method of claim 8, wherein the abstract graphical display of the marketplace is a line including at least two consumer proxies, the line indicating the consumer proxies priority with respect to a service provided by a business.
17. The method of claim 8, further comprising the steps of:

defining a business proxy of a business, the business proxy having updatable variables;

displaying the business proxy within the abstract graphical display of the marketplace; and

updating the business proxy variables periodically.

18. The method of claim 16, wherein the business proxy interacts with the consumer proxy.

19. A program storage device readable by machine, tangibly embodying a program of instructions executable by the machine to perform method steps for facilitating the presentation of an marketplace environment in graphical form the method steps comprising:

displaying an abstract graphical proxy for the environment;

displaying an abstract graphical proxy for at least one consumer within the environment; and

providing the at least one consumer with interactive business facilities via the abstract graphical proxy for the environment.

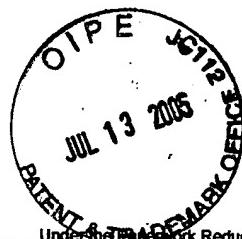
20. The method of claim 19, wherein the environment is a marketplace structured by the business.

21. The method of claim 19, wherein the abstract graphical proxy

for the environment is extensible.

22. The method of claim 19, wherein each consumer proxy is individualized according to consumer input.

23. The method of claim 19, wherein the consumer proxy is individualized according to consumer activity of the at least one consumer within the environment.



PTO/SB/21 (09-04)

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| First Named Inventor | Thomas D. Erickson |
| Art Unit | 2151 |
| Examiner Name | Dinh, Khanh Q. |
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ENCLOSURES (Check all that apply)

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| Effective on 12/08/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818). FEE TRANSMITTAL For FY 2005 | | Complete if Known | |
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| | | Filing Date | November 30, 2000 |
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| | | Examiner Name | Dinh, Khanh Q. |
| <input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27 | | Art Unit | 2151 |
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| Application Type | FILING FEES | | SEARCH FEES | | EXAMINATION FEES | | Fee Paid (\$) |
|------------------|-------------|-----------------------|-------------|-----------------------|------------------|-----------------------|---------------|
| | Fee (\$) | Small Entity Fee (\$) | Fee (\$) | Small Entity Fee (\$) | Fee (\$) | Small Entity Fee (\$) | |
| Utility | 300 | 150 | 500 | 250 | 200 | 100 | |
| Design | 200 | 100 | 100 | 50 | 130 | .65 | |
| Plant | 200 | 100 | 300 | 150 | 160 | 80 | |
| Reissue | 300 | 150 | 500 | 250 | 600 | 300 | |
| Provisional | 200 | 100 | 0 | 0 | 0 | 0 | |

2. EXCESS CLAIM FEES

| Fee Description | Fee (\$) | Small Entity Fee (\$) |
|---|----------|-----------------------|
| Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent | 50 | 25 |
| Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent | 200 | 100 |
| Multiple dependent claims | 360 | 180 |

| Total Claims | Extra Claims | Fee (\$) | Fee Paid (\$) | Multiple Dependent Claims | Fee (\$) | Fee Paid (\$) |
|--|--------------|----------|---------------|---------------------------|----------|---------------|
| - 20 or HP = | x | = | | | | |
| HP = highest number of total claims paid for, if greater than 20 | | | | | | |

| Indep. Claims | Extra Claims | Fee (\$) | Fee Paid (\$) |
|---------------|--------------|----------|---------------|
| - 3 or HP = | x | = | |

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3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

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4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other: Appeal Brief

500.00

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